

**211 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-19692-2022 (O&M)

Date of Decision: 12th December, 2022

Amandeep Singh @ Ammu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Prateek Gupta, Advocate and
Mr. Subham Pathania, Advocate for the petitioner.
Mr. Arun Luthra, DAG, Punjab.

AVNEESH JHINGAN , J.(Oral)

CRM-40628-2022

This is an application for amendment in the Headnote and prayer clause of the petition for adding the offence under Sections 325 and 326 of Indian Penal Code, 1860 therein and the Sections 325 and 326 IPC be read as part of the headnote and prayer clause along with the offences under Sections 323, 324, 427, 148 and 149 of IPC.

For the reasons mentioned in the application, the same is allowed.

Main case

1. This petition is filed seeking regular bail in FIR No. 154, dated 27th November, 2018, under Sections 323, 324, 379, 427, 148 and 149 of Indian Penal Code, 1860, registered at Police Station Bullowal, District Hoshiarpur.

2. Learned counsel for the petitioner claims parity with co-accused Bharjinder Singh @ Pabla Saini who was granted regular bail by this court on 8th December, 2022. He submits that petitioner is in

3. The following order was passed by this Court on 8th December, 2022:-

“The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.154 dated 27.11.2018 registered under Sections 323, 324, 379, 427, 148 and 149 of the IPC of the IPC, 1860 (Sections 325 and 326 of the IPC added later on) at Police Station Bullowal, District Hoshiarpur.

2. The brief facts of the case are that the statement of Kavin Chaudhary son of Babby Chaudhary was recorded to the effect that on 23.11.2018 his brother Shehzad and cousin brother namely, Abhishek had gone to Bullowal from village Ghorewah for getting their car repaired. Thereafter, he and his father also reached Bullowal in their Creta car bearing No.PB07-BN-1805. At about 08.00 PM, Pardeep Singh @ Deepa son of Parminder Singh armed with a Kirpan, Bobby son of Rachhpal @ Champa armed with a Kirpan, Gagan @ Thiara son of Mintu armed with an iron rod, Ammu armed with a baseball, Bharjinder Singh @ Pabla Saini (petitioner) armed with a dattar, Sheru Gujjar son of Paramjeet armed with a dattar and two unidentified persons came to the spot with dangs. Pardeep Singh @ Deepa raised a lalkara. Thereafter, he gave a Kirpan blow with an intention to kill him but since he (complainant) raised his left hand to save himself, the blow struck his left hand. Two more Kirpan blows were given on the right side of his head. Sheru Gujjar gave a dattar blow with its reverse side on his face and two blows on his forehead and backside of the left ear. Pardeep Singh @ Deepa opened the door of the car, dragged him out and threw him on the ground and while laying down, Bobby gave a Kirpan blow on his left hip and two more Kirpan blows with its reverse side on the wrist of his left hand and elbow. Thereafter, Bharjinder Singh @ Saini Pabla gave three dattar blows with its reverse side which hit him on his left side of the head, elbow of the left arm and bicep of the left arm. Thereafter, Gagan @ Thiara gave three iron rod blows on the bicep of his right arm, wrist of right arm and backside of right ear. Ammu gave him two baseball bat blows on his back and backside of the head and the unknown boys also gave beatings. On raising a noise, these persons gave beatings to his father and brother and broke the glasses of the car. They also carried away cash amount of Rs.1 lakh belonging to his father lying in the car.

3. The learned counsel for the petitioner contends that the injuries attributed to the petitioner are grievous in nature. However, none of the injured i.e. complainant Kavin Chaudhary, Babby Chaudhary and Abhishek have suffered any permanent disability and in fact are hale and hearty. The petitioner has been in custody since 21.11.2021 and none of the 21 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded in the near future. Further, the petitioner is a first-time offender with no other case registered against him. He thus, prays that the petitioner ought to be granted the concession of regular bail.

4. On the other hand, the learned State counsel contends that the petitioner along with his co-accused assaulted the complainant party causing multiple injuries to the injured including grievous injuries. He, however, admits the period of custody undergone by the petitioner as also the fact that none of the 21 prosecution witnesses have been examined and the petitioner has clean antecedents.

5. I have heard the learned counsel for the parties at length.

6. Admittedly, the petitioner is in custody since 21.11.2021. None of the 21 prosecution witnesses have been examined so far and therefore, the Trial of the present case is not likely to be concluded anytime soon. Therefore, the further incarceration of the petitioner is not required.

7. *Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Bharjinder Singh @ Pabla Saini son of Sh. Tarlochan Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.*
8. *The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.*
9. *In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.*
10. *The petition stands disposed of.”*

4. Learned counsel for the State though opposes the prayer for grant of bail but on instructions fairly submits that challan has been presented. He is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned. He further submits that petitioner is involved in one more case.
5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned, considering the custody period and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.
6. The petition is allowed.
7. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(AVNEESH JHINGAN)
JUDGE

12th December, 2022
Parveen Sharma

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No